



Maritime &
Coastguard
Agency

Consultation on THE MERCHANT SHIPPING (COUNTING AND REGISTRATION OF PERSONS ON BOARD PASSENGER SHIPS) (AMENDMENT) REGULATIONS 2021

Consultation Outcome Report

Summary of consultee comments and MCA responses to them

February 2021

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Section 1: Introduction

1. The Maritime and Coastguard Agency (MCA), an Executive Agency of the Department for Transport (DfT), carried out a public consultation, which ran from 15 October 2020 to 12 November 2020, on The Merchant Shipping (Counting and Registration of Persons on board Passenger Ships) (Amendment) Regulations 2021 which transposes EU Directive 2017/2109 into UK Law.
2. The main change introduced by these Regulations is the method by which passenger numbers and passenger information is required to be transmitted. From 20 December 2023, for vessels to which the regulations apply, passenger numbers must be reported digitally to the relevant authorities either via the National Single Window ('NSW') or via the ship's Automatic Identification System ('AIS'). In regards passenger information, this must be reported via the NSW.
3. These proposed regulations will ensure that HM Coastguard have direct access to accurate passenger information onboard passenger vessels. This will assist search and rescue authorities to properly evaluate each situation and operate more effectively. These time efficiency and informational access improvements will help reduce the risks to lives onboard when in distress.
4. This consultation set out to query the revised proposals for effectiveness, practicality, reasonableness and cost effectiveness, inviting consultees to give their views. In the consultation document, 10 brief questions were posed, generally asking for evidence or opinions on the question provided followed by a free text area in which the respondent could provide a full description of their views. The following supporting documents were provided with the consultation to show the actual amending text which was proposed to bring about the changes:
 - a) a draft Statutory Instrument (i.e. the proposed The Merchant Shipping (Counting and Registration of Persons on board Passenger Ships) (Amendment) Regulations 2021);
 - b) a DeMinimis Assessment (DMA)
 - c) a draft Amendment to Merchant Shipping Notice (MSN) 1794 Amendment 1 (M);
5. The DMA which was published during the consultation was given some minor adjustments following the consultation responses to reflect the views provided ahead of a final review by the Regulatory Policy Committee (RPC).
6. This Report gives a high-level outline of the comments received from respondents. It does not seek to cover every individual comment received, but all comments received have been taken into consideration. Where appropriate, individual respondents will receive individual, private, replies.

Section 2: Consultation

7. The consultation was carried out between 15 October 2020 and 12 November 2020. It can be found at <https://www.gov.uk/government/consultations/consultation-on-merchant-shipping-counting-and-registration-of-persons-on-board-passenger-ships-amendment-regulations-2020>
8. While the consultation was promulgated on GOV.UK for any member of the public who wished to read it and/or respond to it, and triggered notifications for anyone who is subscribed to receive such government notifications, additionally, the Maritime and Coastguard Agency (MCA) individually notified over 30 consultee addresses. These comprised a mixture of domestic passenger vessel representative organisations, individual operators, government departments and other interested parties. All persons and organisations who had specifically requested notification were included. The MCA also made the consultation known through its Domestic Passenger Ship Safety groups, comprising government, industry and other interested parties, namely the Domestic Passenger Ship Safety Group (DPSSG).
9. A total of **5** responses were received from across the UK. Consultees were invited to indicate the type of respondent they were on their consultation response. Where they did not do this, MCA scrutinising officials allocated to them the description which appeared to be best fit from the information provided. Of the **5** respondents, **2** of these described themselves as vessel owners or vessel operators, or both. **1** was a domestic passenger vessel representative organisation. **2** were government bodies of some sort, although not all part of central government.
10. This is the only public consultation on this subject. The MCA has considered the comments received during this consultation. It is planned to bring the new Regulations into force on the 22nd of February 2021, although vessel owners and operators will have until 20 December 2023 to implement any necessary changes to the reporting requirements to the National Single Window or via AIS as per the reporting requirements of the regulations.

Section 3: Consultation outcome

Questions posed

11. This consultation set out to query the revised proposals for effectiveness, practicality, reasonableness and cost effectiveness, inviting consultees to give their views. In the consultation document 10 brief questions were posed, generally asking for evidence or opinions on the question provided followed by a free text area in which the respondent could provide a full description of their views. Supporting documents were provided with the consultation to show the actual amending text which was proposed to bring about the changes. Only **1** respondent completed the questions section, and the remaining provided an email response to the consultation as a whole. It is believed that some of the responses from the latter category did not indicate their views in the text boxes because the particular measures were not applicable to them, although they were not were not excluded from responding for this reason.

12. From the responses received, some minor changes to the Regulations and associated documents were carried out and below is a breakdown of the main points raised and the MCA's response and how that was resolved through the associated documentation.

a) Lack of Clarity regarding the applicability of vessels required to comply with the new requirements on reporting to the NSW

From the consultation responses, there was repeated mention of a lack of clarity regarding the applicability of vessels to which the new requirements for reporting to the NSW or via AIS apply and to which vessels it does not apply.

MCA Comments

Following review of the associated documentation, it was decided that for greater clarity, the term "ship operating exclusively on Category A, B, C or D waters as specified in Merchant Shipping Notice 1837 Amendment 2 (M)" was included within relevant sections of The Regulations to provide a clear understanding that non-seagoing domestic passenger vessels whilst required to maintain a system for passenger counting, are not required to report such information to the NSW or via AIS.

The Merchant Shipping Notice MSN 1794 Amendment 1 (M) has also been modified to ensure that the requirements from the new legislation are explained clearly to passenger ship operators to which the requirements apply.

We have received subsequent responses following the consultation that the additional changes clarify and allay the original concerns raised.

b) Data Protection guidance on details received and reported

One response received highlighted the need to ensure the data gathered and also the data reported is adequate and in line with current data protection requirements and finally to ensure that it is required that passenger ship operators make their passengers aware why their data is being required and how such data will be handled.

MCA Comments

Following review of the associated documentation it was decided that to improve the data protection elements required by the new requirements, further guidance was necessary in order to highlight the importance of ensuring ship operators and all government departments involved with the processing of passenger information strictly follow the Data Protection Act 2018.

Such further guidance was provided in a new section of the Merchant Shipping Notice 1794 Amendment 1 (M) titled "Data Protection Guidance and principles" which further highlights the importance of following good practice for data protection and directs readers to guidance documents suggested by the ICO..

One issue highlighted by the ICO was the sharing of data and in raising this issue directed the MCA to the incoming Code of Practice on data sharing. It is important to

note that whilst we have included this guidance within the newly amended MSN, governmental departments that will be involved with the processing of information received from passenger ships destined for the National Single Window are currently developing the processes and approaches to how that will work in practice to ensure the full, safe and secure operation of this new requirement by 20 December 2023.

The transparency from ship operators to provide clear and concise information about how their passengers details will be processed and the specific information that will be gathered has been implemented into the amending MSN and it must be noted also that such information will be expected to be erased immediately following the conclusion of each voyage providing no emergencies occur onboard.

We have received subsequent responses following the consultation that the additional changes clarify and allay the original concerns raised.

c) Gathering of information relating to “gender” in line with current guidance and consistent across government

One response was received from the Law Society of Scotland, highlighting the need to ensure the importance of the recording of information in relation to gender allows passengers to freely select a suitable option including non-binary. In the interests of consistency, these regulations should be in line with the recording of gender information by other UK Government departments.

MCA Comments

A new section within MSN 1794 Amendment 1 was established in order to highlight the importance to ship owners and operators of the latest guidance and approaches to requesting information. A link to the Equality and Human Rights Commission website was provided.

We have received subsequent responses following the consultation that the additional changes clarify and allay the original concerns raised.

Summary

As mentioned previously, broad support for the suggested amendments and changes were well received. The Merchant Shipping (Counting and Registration of Persons on board Passenger Ships) (Amendment) Regulations 2021 was laid before Parliament on the 28th of January 2021 with its effects coming into force on the 22nd of February 2021.

Section 4: Next steps

14. The Maritime and Coastguard Agency will finalise The Merchant Shipping (Counting and Registration of Persons on board Passenger Ships) (Amendment) Regulations 2021 was laid before Parliament on the 28th of January 2021 with it coming into force on the 22nd of February 2021.